

Response Under 37 C.F.R. §1.116 - Expedited Examining Procedure

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Serial No.: 10/732,853 ✓

Confirmation No.: 8898

Filed: 10 December 2003

For: METHOD AND MATERIALS FOR PATTERNING OF AN AMORPHOUS, NON-POLYMERIC, ORGANIC MATRIX WITH ELECTRICALLY ACTIVE MATERIAL DISPOSED THEREIN

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### Remarks

The Final Office Action mailed 23 August 2005 has been received and reviewed. No claims having been amended, added, or canceled herein, the pending claims are claims 1-4, 6-18, and 20-28. Reconsideration and withdrawal of the rejections are respectfully requested.

### Allowable Subject Matter

Applicants thank the Examiner for allowing claims 1-4, 6-18, and 20-25. Applicants wish to bring an apparent typographical error to the Examiner's attention, wherein on page 3, paragraphs 4 and 5, the Examiner lists claim 5 as being allowed. However, claim 5 has been canceled. Appropriate correction is respectfully requested in the next Official Communication.

### Obviousness-Type Double Patenting Rejection

Claims 26-28 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-17 of U.S. Pat. No. 6,844,128 (Hsu et al.). Applicants respectfully traverse the rejection.

"A double patenting rejection of the obviousness-type is 'analogous to [a failure to meet] the nonobviousness requirement of 35 U.S.C. 103' except that the patent principally underlying the double patenting rejection is not considered prior art." M.P.E.P. §804(II)(B)(1). "To establish a *prima facie* case of obviousness . . . there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings." M.P.E.P. §706.02(j). Applicants respectfully submit that the Examiner has failed to establish a *prima facie* case of obviousness.

Claim 1 of Hsu et al. recites, among other things, a "transfer layer comprising an amorphous, non-polymeric, organic light-emitting dendrimer and *an electrically active material*" (emphasis added). The specification of Hsu et al. describes "electrically active" as follows:

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The terms "active" or "electrically active", when used to refer to a layer or material in an organic electronic device, indicate layers or materials that perform a function during operation of the device, for example producing, conducting, or semiconducting a charge carrier (e.g., electrons or holes), producing light, enhancing or tuning the electronic properties of the device construction, and the like. The term "non-active" refers to materials or layers that, although not directly contributing to functions as described above, may have some non-direct contribution to the assembly or fabrication or to the functionality of an organic electronic device.

(Column 2, line 66 to column 3, line 10).

Thus, the recitation of "an electrically active material" in claim 1 of Hsu et al. is a recitation of a genus of materials including, among other species, electron producing materials, electron conducting materials, electron semiconducting materials, hole producing materials, hole conducting materials, hole semiconducting materials, light producing materials, electronic property enhancing materials, and electronic property tuning materials.

In contrast, present claims 26-28 each recite a transfer layer including an "amorphous, non-polymeric, organic matrix with *a light emitting material* disposed in the matrix" (emphasis added). Thus, the recitation of "a light emitting material" in each of present claims 26-28 is a recitation of a *species* of a *genus of electrically active materials*. Moreover, as will be discussed herein below, claims 1-17 of Hsu et al. provide no guidance for one of skill in the art to select a light emitting material (i.e., a species) as the electrically active material (i.e., a genus) recited in claim 1 of Hsu et al.

Specifically, claim 15 of Hsu et al. recites that "the electrically active material produces, conducts or semi-conducts a charge carrier;" claim 16 recites that "the electrically active material comprises a hole transport material;" and claim 17 recites that "the electrically active material comprises an electron transport material." However, none of the claims of Hsu et al. disclose or suggest selecting a light emitting material as the electrically active material.

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Moreover, Applicants respectfully submit that the Examiner has failed to establish motivation for one of skill in the art to select a light emitting material as the electrically active material. Notably, claim 1 of Hsu et al. recites that the transfer layer includes "an amorphous, non-polymeric, organic *light-emitting dendrimer*" (emphasis added). Thus, Applicants respectfully submit that one of skill in the art, absent the teachings of the present application, would have no motivation to select *an additional light emitting material* as the electrically active material recited in claim 1 of Hsu et al.

Based on the remarks presented herein above, Applicants respectfully submit that the Examiner has failed to establish a *prima facie* case of obviousness-type double patenting. Reconsideration and withdrawal of the rejection is respectfully requested.

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**Summary**

It is respectfully submitted that all the pending claims are in condition for allowance and notification to that effect is respectfully requested. The Examiner is invited to contact Applicants' Representatives, at the below-listed telephone number, if it is believed that prosecution of this application may be assisted thereby.

Respectfully submitted for  
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September 19, 2005

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**CERTIFICATE UNDER 37 CFR §1.8:**

The undersigned hereby certifies that the Transmittal Letter and the paper(s), as described hereinabove, are being transmitted by facsimile in accordance with 37 CFR §1.6(d) to the Patent and Trademark Office, addressed to Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 19th day of September, 2005, at 12:31 p.m. (Central Time).

By: [Signature]  
Name: Rachel Gebhardt-Gebhardt